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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
Against:

13 **ISCKER ESTHER AKEYO**

14 Respondent.

Case No. 2013-668.
15 **STATEMENT OF ISSUES**

16 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

17 **PARTIES**

18 1. Complainant brings this Statement of Issues solely in her official capacity as the
19 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
20 Affairs.

21 2. On or about September 28, 2011, the Board received a Request for Reapply/Repeat
22 Examination from Iscker Esther Akeyo ("Respondent"). On or about September 22, 2011,
23 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
24 representations in the application. The Board denied the application on December 20, 2011.

25 **JURISDICTION**

26 3. Pursuant to Business and Professions Code ("Code") section 485(b), on or about
27 December 20, 2011, Respondent's application was denied and she was notified of the right to a
28 hearing to appeal the denial.

4. On or about February 13, 2012, Respondent requested a hearing to appeal the denial of her application.

STATUTORY PROVISIONS

5. Code section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for the following:

(a) Unprofessional conduct.

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action."

6. Code section 480 states, in pertinent part:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Out-of-State Discipline)

7. Respondent is subject to discipline under Code section 2761(a)(4), in that effective July 14, 2009, pursuant to a document titled, "Notification of Change in Kansas Nursing Aide Registry Record, State Administrative Findings," attached hereto as **Exhibit A**, issued by the Kansas Department of Health and Environment, Respondent's Certified Medication Aid and Certified Nurse Aide certificates were disciplined, in that Respondent was found to be in violation of K.S.A. 39-1401(F)(1) (infliction of physical or mental injury), K.S.A. 39-1401(F)(7) (abuse), and K.S.A. 39-1401(G) (neglect), in that on or about October 18, 2008, while employed at

1 Eventide Convalescent Center, located in Topeka, Kansas, Respondent attempted to transfer a
2 resident from a shower chair to a Geri-chair by herself without using a mechanical lift or a two
3 person assist, as required. The resident was unable to bear her own weight and fell to the floor,
4 fracturing her left femur. However, the resident's injury went unnoticed by Respondent. In
5 addition, Respondent failed to report the incident.

6 **SECOND CAUSE FOR DENIAL OF APPLICATION**

7 **(Committed Acts Which if Done by a Licentiate Constitute Cause for Discipline)**

8 8. Respondent's application is subject to denial under Code sections 480(a)(3)(A), in
9 that Respondent committed acts which if done by a licentiate of the profession would constitute
10 grounds for suspension or revocation of a license under Code section 2761(a)(1) (unprofessional
11 conduct, incompetence, or gross negligence), as more particularly set forth above in paragraph 7.

12 **PRAAYER**

13 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Registered Nursing issue a decision:

- 15 1. Denying the application of Iscker Esther Akeyo for a registered nurse license;
16 2. Taking such other and further action as deemed necessary and proper.

17 DATED:

February 22, 2013

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

"Notice of Change in Kansas Nursing Aide Registry Record, State Administrative Findings" dated July 14, 2009, pertaining to Respondent Iscker Esther Akeyo



K A N S A S

RODERICK L. BREMBY, SECRETARY

MARK PARKINSON, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

Notification of Change in Kansas Nurse Aide Registry Record State Administrative Findings July 14, 2009

Name and Address Information:

ISCKER ESTHER AKEYO
2449 SE BELLVIEW AVE APT H TOPEKA, KS 66605

Other Names:

Personal Information:

Social Security Number: [REDACTED]
Credential Number: 158637

Credential Type
Certified Medication Aide
Certified Nurse Aide

Issue Date
01/03/2008
11/01/2007

Abuse Information:

Type of Findings: Abuse & Neglect
Aide Waived State Administrative Hearing: No
State Administrative Confirmation Date: 07/14/2009

Summary of State Administrative Confirmation Findings

Summary Findings: ON OR ABOUT OCTOBER 18, 2008, ISCKER E. AKEYO, CNA/CMA, COMMITTED AN ACT OR FAILED TO ACT INTENTIONALLY OR RECKLESSLY THAT CAUSED OR WAS LIKELY TO HAVE CAUSED HARM TO A RESIDENT OF EVENTIDE CONVALESCENT CENTER, 2015 SE 10TH AVENUE, TOPEKA, KANSAS 66607, ("FACILITY") INCLUDING INFLICTION OF PHYSICAL OR MENTAL INJURY AS DEFINED BY K.S.A. 39-1401(F)(1) AS ABUSE AND OMISSION OR DEPRIVATION BY A CARETAKER OR ANOTHER PERSON OF GOODS OR SERVICES WHICH ARE NECESSARY TO ENSURE SAFETY AND WELL-BEING AND TO AVOID PHYSICAL OR MENTAL HARM OR ILLNESS AS DEFINED BY K.S.A. 39-1401 (F) (7) AS ABUSE. ISCKER E. AKEYO ALSO FAILED OR OMITTED TO PROVIDE GOODS OR SERVICES WHICH ARE REASONABLY NECESSARY TO ENSURE SAFETY AND WELL-BEING AND TO AVOID PHYSICAL OR MENTAL HARM OR ILLNESS DEFINED BY K.S.A. 39-1401 (G) AS NEGLECT. MORE SPECIFICALLY, ON OCTOBER 18, 2008 AT ABOUT 3:30 P.M. ISCKER

DIVISION OF HEALTH
Bureau of Child Care and Health Facilities
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 200, TOPEKA, KS 66612-1365
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DEPARTMENT OF HEALTH AND ENVIRONMENT

E. AKEYO, CNA/CMA EMPLOYED AT THE FACILITY TRANSFERRED A RESIDENT FROM BED TO A GERI-CHAIR USING A MECHANICAL LIFT. MS. AKEYO THEN TRANSPORTED THE RESIDENT TO THE FACILITY SHOWER ROOM WHERE SHE AND ANOTHER EMPLOYEE TRANSFERRED THE RESIDENT TO A SHOWER CHAIR. THE RESIDENT SUFFERS FROM DEMENTIA AND IS TOTALLY DEPENDENT FOR ALL ACTIVITIES OF DAILY LIVING. THE RESIDENT'S CONDITION AND CARE PLAN REQUIRE THE USE OF A MECHANICAL LIFT OR TWO PERSON ASSIST FOR TRANSFERS. AFTER THE RESIDENT'S SHOWER WAS COMPLETED MS. AKEYO ATTEMPTED TO TRANSFER THE RESIDENT FROM THE SHOWER CHAIR INTO THE GERI-CHAIR BY HERSELF WITHOUT USING A MECHANICAL LIFT OR TWO PERSON ASSIST. THE RESIDENT WAS UNABLE TO BEAR WEIGHT AND WENT DOWN TO THE FLOOR. MS. AKEYO THEN APPROACHED ANOTHER EMPLOYEE AND REQUESTED ASSISTANCE IN TRANSFERRING THE RESIDENT. WHEN THE OTHER EMPLOYEE ENTERED THE SHOWER ROOM SHE OBSERVED THE RESIDENT ON THE FLOOR AND ASKED MS. AKEYO IF THE NURSE HAD BEEN TOLD AND HAD SEEN THE RESIDENT. MS. AKEYO RESPONDED THAT EVERYTHING HAD BEEN DONE AND SHE JUST NEEDED HELP TRANSFERRING THE RESIDENT FROM THE FLOOR TO THE GERI-CHAIR. AT ABOUT 1:00 A.M. THE NEXT MORNING, OCTOBER 19, 2008, THE FACILITY OVERNIGHT STAFF ENTERED THE RESIDENT'S ROOM IN THE PROCESS OF CONDUCTING ROUNDS. TWO EMPLOYEES WHO WERE UNAWARE OF THE PRIOR FALL INCIDENT WERE CARING FOR THE RESIDENT WHEN SHE BEGAN SCREAMING OUT AND GRABBED HER LEFT UPPER GROIN AREA. THE EMPLOYEES OBSERVED THAT THE RESIDENT'S UPPER THIGH AND KNEE WERE SWOLLEN. THEIR OBSERVATIONS WERE REPORTED TO THE FACILITY CHARGE NURSE WHO WAS ALSO UNAWARE OF THE PRIOR FALL INCIDENT. THE NURSE ASSESSED THE RESIDENT AND NOTED SWELLING, PAIN AND A SCRATCH IN THE SHAPE OF THE LETTER X ON THE RESIDENT'S SKIN BELOW THE LEFT KNEE. THE CHARGE NURSE REPORTED THE RESULTS OF HER ASSESSMENT TO THE RESIDENT'S PHYSICIAN WHO ORDERED THAT THE RESIDENT BE SENT TO A HOSPITAL FOR EVALUATION. SUBSEQUENT MEDICAL EVALUATION REVEALED THAT THE RESIDENT HAD SUFFERED A FRACTURE OF HER LEFT FEMUR. FACILITY MANAGEMENT INVESTIGATED THE INCIDENT AND INTERVIEWED MS. AKEYO. DURING THE INTERVIEW MS. AKEYO ADMITTED TO FACILITY MANAGEMENT THAT SHE DID NOT USE THE MECHANICAL LIFT WHEN

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TRANSFERRING THE RESIDENT FROM THE SHOWER CHAIR. SHE ALSO ADMITTED THAT SHE DID NOT REPORT THE RESIDENT'S FALL TO THE FACILITY CHARGE NURSE. THE ABOVE ACTIONS BY ISCKER E. AKEYO CONSTITUTE ABUSE AS DEFINED BY K.S.A. 39-1401(F)(1) AND K.S.A. 39-1401 (F)(7) AND NEGLECT AS DEFINED BY K.S.A. 39-1401(G).

Additional Findings:

Aide's Dispute of State Administrative Findings